

APPLICANT:
Seasons of Bel Air I, LLC

BEFORE THE
ZONING HEARING EXAMINER
FOR HARFORD COUNTY
BOARD OF APPEALS

REQUEST:
Variances to allow a structure within the required front yard setback and visibility triangle at an intersection, and a variance to allow a sign structure to exceed 6 feet in height

HEARING DATE: December 17, 2003

Case No. 5381

ZONING HEARING EXAMINER'S DECISION

APPLICANT: Seasons of Bel Air I, LLC

LOCATION: Corner of Brierhill Drive and Churchville Road
Tax Map: 49 / Grid: 1D / Parcel: 225
Third Election District

PRESENT ZONING: R4 / Urban Residential District

REQUEST: Variance to Section 267-26C(4) of the Harford County Code to allow a structure (proposed gatehouse) within the required front yard setback; a variance to Sections 267-24C(1) and (2), to allow a structure to be located within the visibility triangle at the intersection; and a variance to Section 219-7K of the Harford County Sign Code to allow a development project identification sign structure to exceed 6 feet in height in a R4/Urban Residential District.

TESTIMONY AND EVIDENCE OF RECORD:

For the purposes of hearing, Case Nos. 5380 and 5381 were consolidated.

For the Applicant first testified Jerome R. Gentile, Jr., a principal of Gentile Associates, LLC. Mr. Gentile explained that the Greenbrier Apartment complex was purchased by the Applicant in September of 2002. Since that time extensive landscaping has been planted, roads have been repaved, new street signage and directional signage installed, new playgrounds created, lighting has been upgraded, oil storage tanks have been removed, and entry hallways have been renovated. In general the Applicant has undertaken steps to significantly upgrade the condition of the property.

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The Applicant further plans to create new picnic grounds and upgrade the community recreational facility. To date, the cost of renovations has totaled approximately \$1,000,000.00. The Applicant plans to spend an additional \$1,200,000.00 and \$1,400,000.00 in upgrades before its planned renovations are completed.

The Applicant proposes new signage at both the intersection of Todd Road and Brierhill Drive, and the intersection of Brierhill Drive and MD Route 22 (Churchville Road). These upgrades are an integral part of the Applicants' plan of project improvements.

Next for the Applicant testified David L. Martin, director of land planning for G.W. Stephens, Jr. and Associates. Mr. Martin was offered and accepted as a professional land planner and landscape architect. Mr. Martin explained that the Applicant is requesting a variance to allow the proposed gatehouses to be within the required front yard setback, a variance to allow the gatehouses to be located within the visibility triangle of the intersection, and a variance to allow a development project identification sign structure to exceed 6 feet in height. Mr. Martin noted that there are existing signs at both locations, each of which would be replaced by the new signs. The new decorative stone pilings of the sign structure would be approximately 1.25 feet higher than that allowed by Code (6 feet allowed).

Mr. Martin then explained that additional variances are being requested to allow the construction of both the signs and gatehouses at each location to be within the "visibility triangle" of the intersection. A review of the site plan submitted with the Applicant's request shows that the gatehouse, being approximately 8 feet x 12 feet in size, would impact the visibility triangle at Churchville Road and Brierhill Drive by an inch or two, at most.

Mr. Martin testified that all variances were necessary because of the change in elevation of the area and reduction in available frontage due to State Highway takings, and because of the extensive State Highway rights-of-way at both locations. Mr. Martin explained that the gatehouse and signs would be an improvement to the properties, and the signs in particular would aid passers-by in locating the properties. The gatehouses are pure architectural elements, would remain locked, and would not pose a hazard. Mr. Martin envisions no problem with visibility at the intersections as the improvements are setback far enough off the surroundings streets so as to not impair visibility of motorists. In fact, the newly proposed identification signs are set back farther than the existing signs they will replace.

Mr. Martin was of the opinion that there would be no adverse impact on the surrounding properties, or the neighborhood, and the use would comply with the Limitations, Guides, and Standards of the Harford County Zoning Code.

Anthony McClune, Deputy Director of the Harford County Department of Planning and Zoning discussed and expanded upon the recommendations of the Department. Mr. McClune indicated that the proposed signs are approximately 6 foot above grade, with the supporting stone columns being approximately 7.25 feet above grade. Mr. McClune indicated that this did not pose any sort of an adverse impact.

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Mr. McClune testified that the gatehouse at Brierhill Drive and Todd Road will be located approximately 33.7 feet from the property line, and the gatehouse at Churchville Road and Brierhill Drive will be about 10 feet from the property line, while 40 feet is required by Code. Mr. McClune also indicated that there would be no adverse impact if these variances were granted.

Mr. McClune stated that the request to impact the visibility triangle at both locations would cause no adverse impact, and will, in fact, assist motorists in locating the subject property. Due to the topography of the land and location of other improvements, the potential locations of the gatehouses are limited to the areas requested. Mr. McClune indicated that the State Highway takings, rights-of-way, and resulting configurations create the need for the variances. The granting of these variances have no adverse impact and it would, in fact, both improve the Applicant's property and neighborhood, and assist the passing motorists in identifying and locating the properties.

No witnesses appeared in opposition.

APPLICABLE LAW:

The Applicants are requesting a variance to Section 267-26C(4) of the Harford County Code which prohibit structures within the required front yard, which would be 40 feet in this instance:

Harford County Code Section 267-26C(4) states:

“No accessory use or structure shall be established within the required front yard, except agriculture, signs, fences, walls or parking area and projections or garages specified in §267-23C, Exceptions and modifications to minimum yard requirements.”

Section 267-24C(1) and (2) of the Harford County Code prohibits structures within the “visibility triangle” of intersecting roads:

“Visibility at intersecting roads.

- (1) In order to provide for visibility across lots at intersection roads, there shall be a triangular area of clear vision on each corner lot.

The triangular area shall be formed from a point on each road right-of-way line located twenty (20) feet for local roads, forty (40) feet for collector roads and sixty (60) feet for arterial roads from the intersection of the road right-of-way line, which abuts the lot and a third line connecting the two (2) points.

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- (2) On any portion of a lot that lies within the triangular area described above, no obstruction shall be placed in such a manner as to impede vision between a height of two and one half (2 ½) feet to ten (10) feet above the grade at the road right-of-way.”

Section 219-7K of the Harford County Sign Code governs the location and size of development project identification signs:

“Permanent residential entrance or development project identification signs. Residential entrance or development project identification sign with letters or advertising area not to exceed a total area of 32 square feet shall be permitted on the property, provided that it is located not less than 10 feet from the road right-of-way line. In addition, the height of the sign or structure shall not exceed 6 feet. If the parcel or lot has multiple frontage of at least 50 feet, additional signs with letters or advertising area not to exceed a total of 32 square feet shall be permitted. Such sign or structure shall not exceed 6 feet in height and shall not be located less than 10 feet from the road right-of-way. Said signs may be split entrance signs; however, the overall advertising area may not exceed the 32 square feet. ”.

Section 219-17 of the Sign Code allows an Applicant to request a variance:

“The Board may grant a variance from the provisions of this chapter if, by reason of the configuration or irregular shape of the lot or by reason of topographic conditions or other exceptional circumstances unique to the lot or building, practical difficulty or unnecessary hardship results. The Board shall, before granting the variance, make a written finding as part of the record that the conditions or circumstances described are unique to the lot or building, that the conditions or circumstances cause the difficulty or hardship and that the variance can be granted without impairment of the purpose and provisions of this chapter.”

Section 267-11 of the Harford County Code allows the granting of a variance to the requirements of the Code:

“Variances.

- A. Except as provided in Section 267-41.1.H., variances from the provisions or requirements of this Part 1 may be granted if the Board finds that:

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- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Part 1 would result in practical difficulty or unreasonable hardship.
 - (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Part 1 or the public interest.
- B. In authorizing a variance, the Board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary, consistent with the purposes of the Part 1 and the laws of the state applicable thereto. No variance shall exceed the minimum adjustment necessary to relieve the hardship imposed by literal enforcement of this Part 1. The Board may require such guaranty or bond as it may deem necessary to insure compliance with conditions imposed.
- C. If an application for a variance is denied, the Board shall take no further action on another application for substantially the same relief until after two (2) years from the date of such disapproval.”

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

The Applicant is proposing what appears to be substantial improvements to what has formerly been known as the Greenbrier Apartment complex. Those improvements will include the replacement of the existing project identification signs and the construction of gatehouses. The project identification signs will replace signs which had been in existence for some years, and which were in fact closer to the intersection than the proposed signs. The architectural features of the sign will be very slightly over the 6 foot limitation of the Code. Such an increase will have no adverse impact on either passers-by or motorists, and in fact will most likely increase the visibility of the project and ability of those searching for the project to more easily locate it. Both intersections have been impacted in unique ways by State Highway takings and by significant State Highway right-of-way requirements. Accordingly, these unique characteristics create an inability to conform with existing setbacks and the “visibility triangle” requirement. The requested variances are accordingly necessary to allow the Applicant to construct its proposed improvements.

There will be no adverse impact caused by the granting of these variances.

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The Applicants further meet or exceed all requirements of Section 267-9(I) Limitations, Guides, and Standards.

CONCLUSION:

For the above reasons it is recommended that the requested variances be granted.

Date: January 16, 2004

ROBERT F. KAHOE, JR.
Zoning Hearing Examiner